

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-21436-CV-WILLIAMS

LESROY CHRISTIAN,

Plaintiff,

v.

CARNIVAL CORPORATION,

Defendant.

ORDER

THIS MATTER is before the Court on Magistrate Judge Jonathan Goodman's Report and Recommendation (DE 33) ("Report") on Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint (DE 26) ("Motion to Dismiss"). In the Report, Judge Goodman recommends that the Motion to Dismiss be granted in part, without prejudice and with leave for Plaintiff to file a third amended complaint. (DE 33 at 1.) Plaintiff and Defendant objected to the Report (DE 35; DE 36) and each Party responded to the other's objections (DE 37; DE 38).¹ ² The Court conducted a *de novo* review of

¹ Plaintiff's objection merely rehashes arguments that were presented to Judge Goodman. As such, the objection simply disagrees with the Report's conclusion. However, it is well settled that an objecting party may not "submit [] papers to a district court which are nothing more than a rehashing of the same arguments and positions taken in the original papers submitted to the Magistrate Judge. Clearly, parties are not to be afforded a 'second bite at the apple' when they file objections to a [Report]." *Marlite, Inc. v. Eckenrod*, 2012 WL 3614212, at *2 (S.D. Fla. Aug. 21, 2012) (quoting *Camardo v. Gen. Motors Hourly-Rate Emps. Pension Plan*, 806 F. Supp. 380, 382 (W.D.N.Y. 1992)).

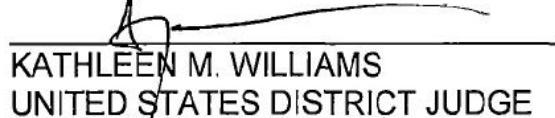
² Defendant objects to the recommendation that Plaintiff be given leave to file a third amended complaint "as this is inconsistent with [the Court's] previous Order [DE 23]." (DE 36 at 3.) On June 26, 2024, following Plaintiff's response to an order to show cause why it failed to respond to Defendant's Motion to Dismiss the Amended Complaint, the Court noted that Plaintiff responded in a manner that lacked regard for the Court's

the portions of the Report to which the Parties objected and a review of the remainder of the Report for clear error.

Having carefully reviewed the Report, the objections, the record, and applicable law, it is **ORDERED AND ADJUDGED** as follows:

1. The Report (DE 33) is **AFFIRMED AND ADOPTED**.
2. Defendant's Motion to Dismiss (DE 26) is **GRANTED IN PART AND DENIED IN PART**, as specified by Judge Goodman, without prejudice, and with leave for Plaintiff to file a third amended complaint.
3. Plaintiff has fourteen (14) days from the date of this order to file a third amended complaint. Failure to do so will result in dismissal of this case.

DONE AND ORDERED in Chambers in Miami, Florida, this 30th day of September, 2024.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

deadlines and federal civil procedure and stated that Plaintiff's Second Amended Complaint would be its final complaint in this case. (DE 23.) In light of Judge Goodman's thoughtful and comprehensive analysis, however, Plaintiff will be afforded one final amendment in this case. There will be no further amendments to the complaint after the third amended complaint.